

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RHOBAR, INC., RHOBAR DEVELOPMENT  
ASSOCIATES, LLC., ACKERLY ASSOCIATES, LLC.,  
SILVER HUNTINGTON ENTERPRISES, LLC.,  
and SILVER HUNTINGTON REALTY, LLC.,

Case no: 07 CIV 6100

Plaintiffs,

-against-

**NOTICE OF APPEARANCE  
ANSWER TO COMPLAINT  
UNDER THE RACKETEER  
INFLUENCED AND  
CORRUPT ORGANIZATIONS  
ACT WITH AFFIRMATIVE  
DEFENSES AND  
COUNTERCLAIMS**

HOWARD SILVER, 2 ON THE AISLE, INC.,  
DAVID A. KAMINSKY & ASSOCIATES, P.C.,  
MARTIN G. DOBIN, ESQ., a/k/a JERRY DOBIN, ESQ.,  
and ELLIOT J. HURDY,

Defendants.  
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**PEOPLE:**

**DEFENDANTS** DAVID A. KAMINSKY & ASSOCIATES, P.C., MARTIN G.  
DOBIN, ESQ., a/k/a JERRY DOBIN, ESQ. and HOWARD SILVER hereby appear by  
their attorneys DAVID A. KAMINSKY & ASSOCIATES, P.C.

**PLEASE TAKE NOTICE** that said Defendants hereby interpose the following  
answer to the COMPLAINT UNDER THE RACKETEER INFLUENCED AND  
CORRUPT ORGANIZATIONS ACT (hereinafter "COMPLAINT"):

1. Deny knowledge or information sufficient to form a belief as to the  
contents of paragraph (1) of the COMPLAINT.

2. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (2) of the COMPLAINT.

3. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (3) of the COMPLAINT.

4. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (4) of the COMPLAINT.

5. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (5) of the COMPLAINT.

6. Admit the contents of paragraph (6) of the COMPLAINT.

7. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (7) of the COMPLAINT.

8. Admit the contents of paragraph (8) of the COMPLAINT.

9. Admit the contents of paragraph (9) of the COMPLAINT.

10. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (10) of the COMPLAINT.

11. State that paragraph (11) of the COMPLAINT contains only statements of law not requiring a response and respectfully refers the Court to the statutes cited for their terms.

12. State that paragraph (12) of the COMPLAINT contains only statements of law not requiring a response and respectfully refers the Court to the statutes cited for their terms.

13. Deny the allegations of paragraph (13) of the COMPLAINT.

14. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (14) of the COMPLAINT.

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16. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (16) of the COMPLAINT.

17. Deny the allegations of paragraph (17) of the COMPLAINT.

18. Deny the allegations of paragraph (18) of the COMPLAINT.

19. Deny the allegations of paragraph (19) of the COMPLAINT.

20. Deny the allegations of paragraph (20) of the COMPLAINT.

21. Deny the allegations of paragraph (21) of the COMPLAINT.

22. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (22) of the COMPLAINT.

23. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (23) of the COMPLAINT.

24. Deny the allegations of paragraph (24) of the COMPLAINT.

25. Deny the allegations of paragraph (25) of the COMPLAINT.

26. Admits lawsuit against Rhona Silver but Denies the remainder of the allegations of paragraph (26) of the COMPLAINT.

27. Deny the allegations of paragraph (27) of the COMPLAINT.

28. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (28) of the COMPLAINT.

29. Deny the allegations of paragraph (29) of the COMPLAINT.

30. Deny the allegations of paragraph (30) of the COMPLAINT.

31. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (31) of the COMPLAINT.

32. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (32) of the COMPLAINT.

33. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (33) of the COMPLAINT.

34. Deny the allegations of paragraph (34) of the COMPLAINT.

35. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (35) of the COMPLAINT.

36. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (36) of the COMPLAINT.

37. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (37) of the COMPLAINT.

38. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (38) of the COMPLAINT.

39. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (39) of the COMPLAINT.

40. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (40) of the COMPLAINT.

41. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (41) of the COMPLAINT.

42. Deny knowledge or information sufficient to form a belief as to the contents of paragraph (42) of the COMPLAINT.

43. Deny the allegations of paragraph (43) of the COMPLAINT.

44.

45. Deny the allegations of paragraph (45) of the COMPLAINT.



46. Deny the allegations of paragraph (46) of the COMPLAINT.

47. Deny the allegations of paragraph (47) of the COMPLAINT.

48. Admits a criminal complaint Deny the allegations of paragraph (48) of the COMPLAINT.

AS AND FOR A FIRST SEPARATE DEFENSE: FAILURE TO STATE A  
CLAIM

49. The Plaintiffs have failed to state a claim under the Federal Racketeer Influenced and Corrupt Organizations Act ("RICO") statute *18 U.S.C. §§ 1961-1962 (2000)*. The Plaintiffs' have failed to allege with particularity any of the four elements required by the statute: (1) conduct (2) of an enterprise, (3) through a pattern (4) of racketeering activity.

50. The Plaintiffs have failed to allege *conduct* within the meaning of the RICO statute by any of the Defendants herein. Plaintiffs' pleading are conclusory and fail to show that the Defendants conducted or participated in the conduct of the affairs of an enterprise through a pattern of racketeering activity as required by *§1962(c)*.

51. The Plaintiffs have failed to allege how the Defendants herein were an *enterprise* within the meaning of the RICO statute. The Plaintiffs have failed to plead with any specificity that the Defendants herein are a continuing unit that has some type of organization and constitutes an entity separate and apart from the alleged pattern of racketeering alleged by the Plaintiffs as required by *§1962(c)*.

52. The Plaintiffs have failed to allege a *pattern* within the meaning of the RICO statute. Plaintiffs have failed to plead with specificity that any of the alleged racketeering acts by the Defendants "are related" and "amount to or pose the threat of continued criminal activity. Furthermore, the Pleadings in the Complaint fail to set forth that said conduct have the same or similar purposes, results, participants, victims, or